

City Clerk FYI

To: Laura Huffman, Assistant City Manager
From: Alison Gallaway, Assistant City Attorney *Alison Gallaway*
Re: Bouldin Meadows, Zoning case No. C14-05-0110
Date: March 31, 2006

On March 9, 2006 Zoning case No. C14-05-0110, Bouldin Meadows, was presented to City Council for a zoning change to SF-3. Concurrently, an ordinance, and a restrictive covenant for a limitation on cut and fill were prepared.

Council approved the SF-3 zoning and variance approving a fill limitation only, to be documented by a Restrictive Covenant.

The restrictive covenant used the City's standard "cut and fill" language. Although the Restrictive Covenants were provided to the Owner for review prior to execution, no one, not the Owner, his attorney, nor City staff, caught the error. The Owner executed the restrictive covenant which included provisions NOT approved by City Council.

The erroneous restrictive covenant was recorded.

In order to accurately reflect what Council did approve, a termination of the original covenant has been prepared that explains the actions taken, and a restrictive covenant with only a fill provision has also been prepared.

Once both have been executed by the owner and after the termination covenant is executed by the City Manager, or designee, both the Termination and the Corrected Restrictive Covenant will be recorded simultaneously at the County Clerk's office.

Because this is a clerical error and does not correctly reflect Council's intention, I believe that it can be terminated and a correct Restrictive Covenant filed without taking further Council action.

06/11/25 PM 4:26



Zoning Case No. C14-05-0110

RESTRICTIVE COVENANT

OWNER: Forest Cove, Ltd., a Texas limited partnership

ADDRESS: 8800 Appaloosa Run, Austin, Texas 78737

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: A 14.005 acre tract of land, more or less, out of the Isaac Decker League, in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant.

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. A fill on the Property may not exceed four feet of depth. This requirement does not include a roadway right-of-way.
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
4. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
5. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the 19th day of April, 2006.

OWNER:

Forest Cove, Ltd.,
a Texas limited partnership

By: Greenslope Partners, Inc.,
a Texas corporation,
its general partner

By: J. Steven Smith
J. Steven Smith,
Vice President

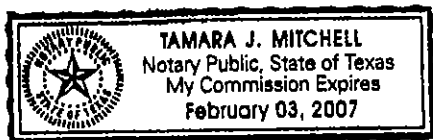
APPROVED AS TO FORM:

[Signature]
Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the 19th day of April, 2006, by J. Steven Smith, Vice President of Greenslope Partners, Inc., a Texas corporation, general partner of Forest Cove, Ltd., a Texas limited partnership, on behalf of the corporation and the general partner.



Tamara J. Mitchell
Notary Public, State of Texas

FIELD NOTES

BEING ALL OF THAT CERTAIN TRACT OR PARCEL OF LAND OUT OF AND A PART OF THE ISAAC DECKER LEAGUE, SITUATED IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS BEING ALL OF THAT CERTAIN 12.482 ACRE TRACT OF LAND CONVEYED BY SPECIAL WARRANTY DEED DATED FEBRUARY 14, 2000 TO FOREST COVE, LTD. IN DOCUMENT NO. 2000021111 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, BEING ALL OF THAT CERTAIN 1.6 ACRE TRACT OF LAND CONVEYED BY DEED WITHOUT WARRANTY DATED MARCH 24, 2004 TO FOREST COVE, LTD. IN DOCUMENT NO. 2004054417 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND BEING ALL OF THAT CERTAIN 0.100 ACRE TRACT OF LAND CONVEYED BY DEED DATED MARCH 18, 2005 TO STEVEN SMITH, TRUSTEE, IN DOCUMENT NO. 2005049756 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID TRACT BEING 14.005 ACRES OF LAND MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at an iron pipe found at the southwest corner of said 12.482 acre Forest Cove tract, being also the northwest corner of that certain tract of land described in a deed to the City of Austin, recorded in Volume 11959, Page 1723 of the Real Property Records of Travis County, Texas, being also in the east right-of-way line of Union Pacific Railroad (100-foot wide), for the southwest corner and the POINT OF BEGINNING of the herein described 14.005 acre tract of land,

THENCE, with the west line of said 12.482 acre Forest Cove tract, being also the east right-of-way line of said Union Pacific Railroad, N17°06'00"E, a distance of 783.35 feet to an iron rod found at the most southerly corner of said 0.100 acre Smith tract,

THENCE, continuing with the east right-of-way line of said Union Pacific Railroad, being also the west lines of said 0.100 acre Smith tract and said 1.6 acre Forest Cove tract, N17°05'03"E, a distance of 787.23 feet to a 3/4" iron pipe found at the northerly corner of said 1.6 acre Forest Cove tract, being also the southwest corner of Oltorf Addition, Tract 1, a subdivision of record in Book 10 at Page 12 of the Plat Records of Travis County for the most westerly northwest corner of the herein described tract,

THENCE, departing said east right-of-way line and with the south boundary line of said Oltorf Addition, being also the north boundary line of said Forest Cove Ltd. 1.6 acre tract, S61°05'12"E, a distance of 172.22 feet to an iron rod found at the southeast corner of said Oltorf Addition, being also the northeast corner of said Forest Cove Ltd. 1.6 acre tract, for an angle point of the herein described tract,

THENCE, departing said boundary line, and with the east line of said Oltorf Addition Tract 1, being also in a westerly boundary line of said Forest Cove Ltd 12.482 acre tract, N29°43'11"E, a distance of 41.71 feet to an iron rod found at the most northerly corner of said Forest Cove 12.482 acre tract, being also in the west boundary line of Bouldin Oaks, a subdivision of record in Book 57 at Page 13 of the Plat Records of Travis County, Texas, for the most northerly corner of the herein described tract,

12/1/2005

FOREST COVE, LTD.

THENCE, with the east boundary line of said Forest Cove Ltd 12.482 acre tract, being also the west boundary line of Lot 7 of Block 7 of said Bouldin Oaks, the following three (3) courses and distances numbered 1 through 3:

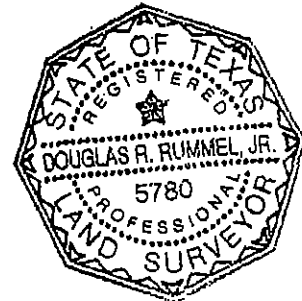
1. S21°23'06"E, a distance of 244.38 feet to an iron rod found for an angle point of the herein described tract,
2. S30°45'24"W, a distance of 404.51 feet to an iron rod found for an angle point of the herein described tract, and
3. S66°38'59"E, a distance of 74.90 feet to an iron rod found at the southwest corner of said Bouldin Oaks, being also the northwest corner of Garden Oaks Section 2, a subdivision of record in Book 13 at Page 16 of the Official Plat Records of Travis County, Texas, for an angle point of said Forest Cove Ltd 12.482 acre tract and an angle point of the herein described tract,

THENCE, with the west boundary line of said Garden Oaks Section 2, being also the east boundary line of said Forest Cove Ltd. 12.482 acre tract, the following seven (7) courses and distances numbered 1 through 7:

1. S19°16'42"W, a distance of 167.55 feet to an iron rod found for an angle point of the herein described tract,,
2. S09°49'41"W, a distance of 151.34 feet to an iron rod found for an angle point of the herein described tract,
3. S04°41'49"W, a distance of 74.00 feet to an iron rod found for an angle point of the herein described tract,
4. S21°58'13"E, a distance of 79.70 feet to an iron rod found for an angle point of the herein described tract,
5. S31°10'47"E, a distance of 143.33 feet to an iron rod found for an angle point of the herein described tract,
6. S15°39'16"E, a distance of 163.01 feet to an iron rod found for an angle point of the herein described tract, and
7. S29°06'01"W, a distance of 415.22 feet to a nail found in rock at the northeast corner of said City of Austin tract, being also the southeast corner of the herein described tract,

THENCE, with the south line of said Forest Cove Ltd. 12.482 acre tract, being also the north line of said City of Austin tract, N60°45'15"W, a distance of 507.62 feet to the **POINT OF BEGINNING** and containing 14.005 Acres of Land.

Surveyed by: *D. R. Rummel, Jr.* 2/16/06
Douglas R. Rummel, Jr. ~ R.P.L.S. No. 5780
Carlson, Brigrance & Doering, Inc.
3401 Slaughter Lane West
Austin, TX 78748 (512) 280-5160



BEARING BASIS IS FROM THE RECORDED DEED OF THE FOREST COVE LTD. 12.482 ACRE TRACT, AS FOUND IN DOCUMENT NUMBER 2000021111 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS

AUSTIN MAP GRID MG-19

After Recording, Please Return to:
City of Austin
Department of Law
P. O. Box 1088
Austin, Texas 78767
Attention: Diana Minter, Legal Assistant

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS

Dana DeBeauvoir

2006 May 12 03:20 PM 2006088535

CORTEZY \$32.00

DANA DEBEAUVOIR COUNTY CLERK

TRAVIS COUNTY TEXAS

Restrictive covenant-Forest Cove